

REMARKS

In this Response, claims 1-28 are currently pending. Claims 1, 10-12, 14-16, 19, 21, 23 and 26-27 are amended in this paper. Claims 1-28 are presented for examination. No new matter has been introduced. Reconsideration of the application is respectfully requested.

Objections to the Claims

In “claim Objections” on page 2-3 of the above-identified Office Action, the Examiner objected to claims 12, 14 and 15 because of informalities. Applicants thank the Examiner for his careful reading; these informalities were unintentional. In response, Applicants have amended the claims according to the Examiner’s recommendations. Acceptance of claims 12, 14 and 15 as amended is respectfully requested.

Rejections under 35 U.S.C. § 102

In “Claim Rejections-35 USC § 102” on pages 3-14 of the above-identified Office Action, claims 1-11 and 19-25 were rejected under 35 USC § 102 (b) as being anticipated by U.S. Patent Application Publication No. 2003/0198458 to Greenwood (hereinafter “Greenwood”). Applicants respectfully submit that Greenwood is not a 102(b) reference, as Greenwood was not published one year prior to the instant application’s filing date. Notwithstanding, in the interest of facilitating prosecution of the instant application, Applicants address the Examiner’s rejection assuming the Examiner intended to reject the claims under 35 USC § 102 (e). Applicants respectfully traverse these rejections and discussion follows.

Notwithstanding, Applicants respectfully disagree with above reading by the Examiner, in order to obtain early allowance of claims 1-11 and 19-25, and to further clarify the claimed subject matter, independent claims 1, 19 and 23 been amended. Amended claim 1 reads:

“storing, by the computing device, the second digital copy simultaneously along with the first digital copy, the simultaneous storage rendering both copies available for a potential replaying for a user at a later time; and

after a period of time during which both copies are available for a potential replaying for a user, applying, by the computing device, a retention policy which instructs deletion of at least selected ones of the stored first and second digital copies.” (Emphasis added, Applicant’s amended claim 1)

Greenwood essentially teaches a storage management system that reduces “a quality level of previously stored content” (Greenwood, Abstract) in order to open storage space. Originally, the Examiner did not dispute that Greenwood does not teach the simultaneous storage of both a high and low copy of reduced content. In the above captioned office action, after further consideration, the Examiner cited paragraph [0020] in Greenwood to read on Applicants’ storing of both a higher quality digital copy and a lower quality digital copy simultaneously. The cited paragraph of Greenwood describes the reduction/conversion process, and states:

“...a decoder 230 and encoder 235 are used to convert the quality of the video and restore it to storage. The higher quality copy of the video is then deleted from storage.” (Emphasis added, Greenwood, [0020])

Applicants submit that it is clear from the cited passage that during the reduction process, the higher quality level of content is deleted. Greenwood teaches a replacement. The replacement of a higher quality copy with a lower quality copy taught by Greenwood is for all practical purposes, and as far as any usage of the copies is concerned, instantaneous. Greenwood taken as a whole clearly teaches away from storing multiple versions of content simultaneously for later viewing or usage by users:

“A storage management system 200 in FIG. 2 selectively reduces a quality level of previously stored content to free storage space for new content. When storage in the system is becoming full, selected content is

converted to a lower quality...” (Emphasis added, Greenwood, Paragraph [0017])

Greenwood teaches that content is “converted”, not that copies of a lower quality level are created then stored along with copies of higher quality, any of which might be later replayed for a user, as recited by Applicant’s amended claim 1.

“After conversion of a video program, space is monitored again at 310, and a second check is performed at 320 to determine if enough space was freed up.” (Greenwood, Paragraph [0026])

Obviously, there would be no “space freed up” if both copies were stored. At the end of the conversion process taught by Greenwood, more space is left, not less. There is no indication anywhere in Greenwood that multiple versions are stored together past the completion of conversion, and Applicants submit that Greenwood teaches away from the storing of both copies available for a potential replaying for a user at a later time recited by amended claim 1, because that would not free up storage space.

Accordingly, Applicants submit that amended independent claim 1 now distinguishes over Greenwood and is therefore patentable over Greenwood under 35 USC §102(e) as amended. Reconsideration in the light of these amendments is requested.

Independent claims 19 and 23, rejected by the Examiner for similar reasons, have been amended to contain generally similar recitations as claim 1. Therefore, for at least similar reasons set forth for claim 1, Applicants submit amended independent claims 19 and 23 are also patentable over Greenwood under 35 USC §102(e) as amended and reconsideration in the light of these amendments is requested.

Claims 2-11, 20-22 and 24-25 depend from amended claims 1, 19 and 23, respectively, incorporating their recitations. Therefore, for at least similar reasons set forth for the corresponding independent claims, Applicants submit that these dependent claims are patentable over Greenwood under 35 USC §102 (e) and reconsideration in the light of amendments is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

In “Claim Rejections – 35 U.S.C. § 103”, on pages 14-20 of the above-cited Office Action, the Examiner rejected claims 12-18 and 26-28 as being unpatentable over Greenwood under 35 U.S.C. § 103(a). The Examiner rejected claim 17 (on page 19), and claim 26 (on pages 16-17), as being unpatentable over Greenwood in view of “official notice” under 35 U.S.C. § 103(a). Applicants respectfully traverse these rejections.

Regarding claims 12-16, 18 and 27-28, the Examiner did not explicitly state his basis for a *prima facie* case of obviousness, beyond reading passages in Greenwood against the various Applicant's claim elements in a manner similar to the 35 USC §102 (b) rejections. Applicants are thereby thwarted from addressing the Examiner's *prima facie* case for obviousness against these claims. Notwithstanding, in the interest of facilitating prosecution of the instant application, Applicants will address the Examiner's 35 U.S.C. § 103(a) rejections.

Amended independent claims 12 and 26 contain generally similar recitations as claim 1 and were rejected by the Examiner for similar reasons. As discussed above, Greenwood, especially when taken as a whole, teaches away from storing multiple copies of content. Nowhere in Greenwood is it taught that multiple copies are stored in such a way that each copy has the potential for being viewed at a later time, and there would be no reason or motivation to do so, as the entire purpose of conversion in Greenwood's system is to free storage space. The usage of storage space for multiple copies of the same program is anathema to Greenwood's system.

Therefore, for at least these reasons, and similar reasons as those set forth above for claim 1, in section “Rejections under 35 U.S.C. § 102” of this paper, Applicants submit that any reading of Greenwood, taken singly or in combination, fails to establish a *prima facie* case of obviousness for amended claims 12 and 26, and amended claims 12 and 26 are therefore patentable over Greenwood under 35 USC §103(a). Reconsideration in the light of amendments is respectfully requested.

Claims 13-18, and 27-28 depend from amended claims 12 and 26, respectively, incorporating their recitations. Therefore, for at least similar reasons set forth for the corresponding independent claims, Applicants submit that these dependent claims are patentable over Greenwood under 35 USC §103 (a) and reconsideration is respectfully requested.

Dependent claims 17 and 26 are further patentable over the cited reference by virtue of their additional recitations. For example, in the case of claim 17, on page 19 of the above-cited Office Action, the Examiner took official notice that “a bit rate as a parameter of quality”, as it is used in Applicant’s invention, would have been notoriously known as such, and rejected claim 17. In the case of claim 26, on pages 16-17 of the above-cited Office Action, the Examiner took official notice that “performing the previously disclosed converting and deletion steps on additional programs”, as it is used in Applicant’s invention, would have been old and well known at the time of Applicant’s filing, and rejected claim 26. Applicants believe that the elements in question, as they are used in Applicant’s invention in combination with the further recitations, are not a fact, “capable of instant and unquestionable demonstration as being well-known” (MPEP 2144.03 (A)) prior to October of 2003. Should the Examiner continue in rejection of claims 17 and 26, Applicants respectfully request, as is their right under MPEP 2144.03 (C), that the Examiner present prior art references, in order that Applicants may have a combination of references which can be addressed for proper argument.

CONCLUSION

In view of the foregoing, reconsideration and allowance of pending claims are solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 381-8819. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 500393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Date: 04/17/2009

by: /Al AuYeung/
Al AuYeung
Reg. No.: 35,432

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981